

AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND THE EUROPEAN COMMUNITY
ON THE COORDINATION OF ENERGY-EFFICIENCY
LABELLING PROGRAMS FOR OFFICE EQUIPMENT

The Government of the United States of America and the European Community, hereinafter "the Parties";

DESIRING to maximise energy savings and environmental benefits by stimulating the supply of and demand for energy-efficient products;

TAKING INTO ACCOUNT the Agreement between the Government of the United States of America and the European Community on the Coordination of Energy-Efficient Labelling Programs for Office Equipment, done on 19 December 2000, and its annexes, as amended (hereinafter "the 2000 Agreement");

SATISFIED by the progress made under the 2000 Agreement;

CONVINCED that additional benefits will be achieved by continuing mutual efforts on ENERGY STAR;

HAVE AGREED AS FOLLOWS:

ARTICLE I

General Principles

1. A common set of energy-efficiency specifications and a common logo shall be used by the Parties for the purpose of establishing consistent targets for manufacturers, thereby maximising the effect of their individual efforts on the supply of and demand for such product types.
2. The Parties shall use the Common Logo for the purpose of identifying qualified energy-efficient product types listed in Annex C.
3. The Parties shall ensure that common specifications encourage continuing improvement in efficiency, taking into account the most advanced technical practices on the market.
4. The Common Specifications strive to represent not more than 25 percent of models for which data is available at the time the specifications are set while also taking other factors into consideration.
5. The Parties shall endeavour to ensure that consumers have the opportunity to identify efficient products by finding the label in the market.

ARTICLE II

Relation to the 2000 Agreement

This Agreement supersedes in its entirety the 2000 Agreement.

ARTICLE III

Definitions

For the purposes of this Agreement:

- (a) "ENERGY STAR" means the service mark designated in Annex A and owned by the United States Environmental Protection Agency ("U.S. EPA");
- (b) "Common Logo" means the certification mark designated in Annex A and owned by U.S. EPA;
- (c) "ENERGY STAR Marks" means the "ENERGY STAR" name and the Common Logo, as well as any versions of these marks that may be developed or modified by the Management Entities or Program Participants, as herein defined, including the sign or marking contained in Annex A of this Agreement;

- (d) "ENERGY STAR Labelling Program" means a program administered by a Management Entity using common energy-efficiency specifications, marks, and guidelines to be applied to designated product types;
- (e) "Program Participants" means manufacturers, vendors, or resale agents that sell designated, energy-efficient products that meet the specifications of and who have chosen to participate in, the ENERGY STAR Labelling Program by registering or entering an agreement with the Management Entity of either Party;
- (f) "Common Specifications" are the energy-efficiency and performance requirements, including testing methods listed in Annex C, used by Management Entities and Program Participants to determine qualification of energy-efficient products for the Common Logo.

ARTICLE IV

Management entities

Each Party hereby designates a management entity responsible for implementation of this Agreement (the "Management Entities"). The European Community designates the Commission of the European Communities ("Commission") as its Management Entity. The United States of America designates the U.S. EPA as its Management Entity.

ARTICLE V

Administration of the ENERGY STAR Labelling Program

1. Each Management Entity shall administer the ENERGY STAR Labelling Program for the energy-efficient product types listed in Annex C, subject to the terms and conditions set forth in this Agreement. Program administration includes registering Program Participants on a voluntary basis, maintaining Program Participant and compliant product lists, and enforcing the terms of the Guidelines for Proper Use of the ENERGY STAR Name and Common Logo set forth in Annex B.
2. The ENERGY STAR Labelling Program shall use the Common Specifications listed in Annex C.
3. To the extent that each Management Entity takes effective measures to educate consumers about the ENERGY STAR Marks, it shall do so in accordance with the Guidelines for Proper Use of the ENERGY STAR Name and Common Logo set forth in Annex B.
4. Each Management Entity shall bear the expenses for all of its activities under this Agreement.

ARTICLE VI

Participation in the ENERGY STAR Labelling Program

1. Any manufacturer, vendor or resale agent may enter the ENERGY STAR Labelling Program by registering as a Program Participant with the Management Entity of either Party.
2. Program Participants may use the Common Logo to identify qualified products that have been tested in their own facilities or by an independent test laboratory and that meet the Common Specifications set forth in Annex C, and may self-certify product qualification.
3. The registration of a Program Participant in the ENERGY STAR Labelling Program by the Management Entity of one Party shall be recognised by the Management Entity of the other Party.
4. To facilitate the recognition of Program Participants in the ENERGY STAR Labelling Program in accordance with Paragraph 3 above, the Management Entities shall cooperate in order to maintain common lists of all Program Participants and products that qualify for the Common Logo.

5. Notwithstanding the self-certification procedures specified in Paragraph 2 above, each Management Entity reserves the right to test or otherwise review products that are or have been sold within its territories (in the territories of the European Community Member States in the case of the Commission) to determine whether the products are certified in accordance with the Common Specifications set forth in Annex C. The Management Entities shall communicate and cooperate fully with one another to ensure all products bearing the Common Logo meet the Common Specifications set forth in Annex C.

ARTICLE VII

Program coordination between the Parties

1. The Parties shall establish a Technical Commission to review implementation of this Agreement, composed of representatives of their respective Management Entities.
2. In principle, the Technical Commission shall meet annually and shall consult at the request of one of the Management Entities to review the operation and administration of the ENERGY STAR Labelling Program, the Common Specifications set forth in Annex C, product coverage, and the progress in achieving the objectives of this Agreement.
3. Nonparties (including other governments and industry representatives) may attend meetings of the Technical Commission as observers, unless otherwise agreed by both Management Entities.

ARTICLE VIII

Registration of the ENERGY STAR Marks

1. The U.S. EPA, as owner of the ENERGY STAR marks, has registered the marks in the European Community as Community Trade Marks. The Commission shall not seek or obtain any registration of the ENERGY STAR marks or any variation of the marks in any country.
2. The U.S. EPA undertakes not to consider as an infringement of these marks the use, by the Commission or by any Program Participant registered by the Commission, of the sign or marking contained in Annex A in accordance with the terms of this Agreement.

ARTICLE IX

Enforcement and non-compliance

1. In order to protect the ENERGY STAR marks, each Management Entity shall ensure the proper use of the ENERGY STAR marks within its territory (within the territories of the European Community Member States in the case of the Commission). Each Management Entity shall ensure that the ENERGY STAR marks are used only in the form that appears in Annex A. Each Management Entity shall ensure that the ENERGY STAR marks are used solely in the manner specified in the Guidelines for Proper Use of the ENERGY STAR Name and Common Logo set forth in Annex B.

2. Each Management Entity shall ensure that prompt and appropriate action is taken against Program Participants, whenever it has knowledge that a Program Participant has used an infringing mark or has affixed the ENERGY STAR marks to a product that does not comply with the Specifications set forth in Annex C. Such actions shall include, but not be limited to:

- (a) informing the Program Participant in writing of its non-compliance with the terms of the ENERGY STAR Labelling Program;
- (b) through consultations, developing a plan to reach compliance; and
- (c) if compliance cannot be reached, terminating the registration of the Program Participant, as appropriate.

3. Each Management Entity shall ensure that all reasonable actions are taken to end the unauthorised use of the ENERGY STAR marks or use of an infringing mark by an entity that is not a Program Participant. Such actions shall include, but shall not be limited to:

- (a) informing the entity using the ENERGY STAR marks of ENERGY STAR Labelling Program requirements and the Guidelines for Proper Use of the ENERGY STAR Name and Common Logo; and

(b) encouraging the entity to become a Program Participant and register qualified products.

4. Each Management Entity shall immediately notify the Management Entity of the other Party of any infringement of the ENERGY STAR marks of which it has knowledge as well as the action taken to end such infringement.

ARTICLE X

Procedures for amending the Agreement and for adding new Annexes

1. Either Management Entity may propose an amendment to this Agreement and may propose new annexes to the Agreement.

2. A proposed amendment shall be made in writing and shall be discussed at the next meeting of the Technical Commission, provided that it has been communicated to the other Management Entity at least sixty days in advance of such meeting.

3. Amendments to this Agreement and decisions to add new annexes shall be made by mutual agreement of the Parties. Amendments to Annexes A, B, and C shall be made according to the provisions of Articles XI and XII.

ARTICLE XI

Procedures for amending Annexes A and B

1. A Management Entity seeking to amend Annex A or Annex B shall follow the procedures set forth in paragraphs 1 and 2 of Article X.
2. Amendments to Annexes A and B shall be made by mutual agreement of the Management Entities.

ARTICLE XII

Procedures for amending Annex C

1. A Management Entity seeking to amend Annex C to revise existing Specifications, or to add a new product type ("Proposing Management Entity") shall follow the procedures set forth in paragraphs 1 and 2 of Article X, and shall include in its proposal:
 - (a) a demonstration that significant energy savings would result from revising the Specifications or adding the new product type;

- (b) as appropriate, energy consumption requirements for various power consumption modes;
- (c) information on the standardised testing protocols to be used in evaluating the product;
- (d) evidence of existing non-proprietary technology that would make possible cost-effective energy savings without negatively affecting product performance;
- (e) information on the estimated number of product models that would meet the proposed specification and approximate market share represented;
- (f) information on the views of industry groups potentially affected by the proposed amendment;
and
- (g) a proposed effective date for the new Specifications, taking into consideration product life cycles and production schedules.

2. Proposed amendments that are accepted by both Management Entities shall enter into force on a date mutually agreed by the Management Entities.

3. If, after receipt of a proposal made in accordance with paragraphs 1 and 2 of Article X, the other Management Entity ("Objecting Management Entity") is of the view that the proposal does not meet the requirements specified in Paragraph 1 above or otherwise objects to the proposal it shall promptly (normally by the next Technical Commission Meeting) notify the Proposing Management Entity in writing of its objection and shall include any available information supporting its objection; for example, information demonstrating that the proposal, if adopted, would likely:

- (a) disproportionately and unfairly confer market power on one company or industry group;
- (b) undermine overall industry participation in the ENERGY STAR labelling program;
- (c) conflict with its laws and regulations; or
- (d) impose burdensome technical requirements.

4. The Management Entities shall make best efforts to reach agreement on the proposed amendment at the first meeting of the Technical Commission following the proposal. If the Management Entities are unable to reach agreement on the proposed amendment at this Technical Commission meeting, they shall seek to reach agreement in writing prior to the subsequent Technical Commission meeting.

5. If, by the end of the subsequent Technical Commission meeting, the Parties are unable to reach agreement, the Proposing Management Entity shall withdraw its proposal; and with respect to proposals to revise existing Specifications, the corresponding product type shall be removed from Annex C by the date agreed upon in writing by the Management Entities. All Program Participants shall be informed of this change and of the procedures to be followed to implement this change.

6. When preparing new Common Specifications or revising existing Common Specifications, the Management Entities shall ensure effective coordination and consultation among themselves and with their respective stakeholders, particularly with regard to the content of the working documents and timelines.

ARTICLE XIII

General provisions

1. Other environmental labelling programs are not covered by this Agreement and may be developed and adopted by either of the Parties.
2. All activities undertaken under this Agreement shall be subject to the applicable laws and regulations of each Party and to the availability of appropriated funds and resources.

3. Nothing in this Agreement shall affect the rights and obligations of any Party deriving from a bilateral, regional or multilateral agreement into which it has entered prior to the entry into force of this Agreement.

4. Without prejudice to any other provisions of this Agreement, either Management Entity may run labelling programs with respect to product types not included in Annex C. Notwithstanding any other provisions of this Agreement, neither Party shall hinder the import, export, sale or distribution of any product because it bears the energy-efficiency marks of the Management Entity of the other Party.

ARTICLE XIV

Entry into force and duration

1. This Agreement shall enter into force on the date upon which each Party has notified the other in writing that its respective internal procedures necessary for its entry into force have been completed.

2. This Agreement shall remain in force for a period of five years. At least one year prior to the end of this period, the Parties shall meet to discuss renewal of this Agreement.

ARTICLE XV

Termination

1. Either Party may terminate this Agreement at any time by providing three months written notice to the other Party.
2. In the event of termination or non-renewal of this Agreement, the Management Entities shall inform all Program Participants which they have registered of the termination of the joint program. Moreover, Management Entities shall inform the Program Participants which they have registered that each Management Entity may continue the labelling activities under two separate individual programs. In this case, the European Community labelling program will not use the ENERGY STAR marks. The Commission shall ensure that itself, the Member States of the European Community and any Program Participants which it has registered cease using the ENERGY STAR marks by the date agreed upon in writing by the Management Entities. The obligations contained in this Article XV (2) shall survive the termination of this Agreement.

ARTICLE XVI

Authentic languages

Done in duplicate at Washington D.C. on the twentieth day of December in the year two thousand and six in the Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Slovakian, Slovenian, Spanish and Swedish, languages, each of these versions being equally authentic. In case of difficulties concerning interpretation, English shall prevail.

For the Government of the United States of America
Por el Gobierno de los Estados Unidos de América
Za vládu Spojených států amerických
For regeringen for Amerikas Forenede Stater
Für die Regierung der Vereinigten Staaten von Amerika
Ameerika Ühendriikide valitsuse nimel
Για την Κυβέρνηση των Ηνωμένων Πολιτειών της Αμερικής
Pour le gouvernement des États-Unis d'Amérique
Per il governo degli Stati Uniti d'America
Amerikas Savienoto Valstu valdības vārdā
Jungtinių Amerikos Valstijų vyriausybės vardu
az Amerikai Egyesült Államok kormányza részéről
Ghall-Gvern ta' l-Istati Uniti ta' l-Amerika
Voor de regering van Verenigde Staten van Amerika
W imieniu rządu Stanów Zjednoczonych Ameryki
Pelo governo Estados Unidos da América
Za vládu Spojené štáty americké
Za vlado Združene države Amerike
Amerikan yhdysvaltojen hallituksen puolesta
För Amerikas förenta staters regering



For the European Community
Por la Comunidad Europea
Za Evropské společenství
For Det Europæiske Fællesskab
Für die Europäische Gemeinschaft
Euroopa Ühenduse nimel
Για την Ευρωπαϊκή Κοινότητα
Pour la Communauté européenne
Per la Comunità europea
Eiropas Kopienas vārdā
Europos bendrijos vardu
az Európai Közösség részéről
Ghall-Komunità Ewropea
Voor de Europese Gemeenschap
W imieniu Wspólnoty Europejskiej
Pela Comunidade Europeia
Za Európske spoločenstvo
za Evropsko skupnost
Euroopan yhteisön puolesta
På Europeiska gemenskapens vägnar

